

AMENDED IN ASSEMBLY JUNE 28, 2009

CALIFORNIA LEGISLATURE—2009—10 THIRD EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 40

Introduced by Assembly Member Evans

June 18, 2009

~~An act relating to the Budget Act of 2009.~~ *An act to add Part 32 (commencing with Section 61001) to Division 2 of the Revenue and Taxation Code, to amend Sections 2100, 2104, 2105, 2106, and 2107 of the Streets and Highways Code, and to amend Sections 1678, 12814.5, 14900, 14900.1, 14901, 14902, 15250.6, 15250.7, 15255.1, and 15255.2 of the Vehicle Code, relating to transportation.*

LEGISLATIVE COUNSEL'S DIGEST

AB 40, as amended, Evans. ~~Budget Act of 2009.~~ *Fuel user fee: vehicle fees.*

(1) Existing law imposes a levy of \$0.18 per gallon on motor vehicle fuel, commonly referred to as gasoline, and on diesel fuel, the revenues from which are deposited in the Motor Vehicle Fuel Account in the Transportation Tax Fund. Under Article XIX of the California Constitution, the portion of these revenues that is derived from use in motor vehicles upon public streets and highways is restricted for expenditure on streets and highways and for certain mass transit guideway purposes. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would, commencing on and after October 1, 2009, impose a user fee, as defined, of \$0.18 cents per gallon of fuel, as defined, purchased by a user, as defined. The bill would also require a supplier or retailer to be licensed with the board, as specified. The bill would

require a retailer to collect the user fee from each user, at the time the fuel is sold to the user, and would require the user fee to be precollected by a supplier, as specified. This bill would require revenues from the fee and related penalties to be deposited in the Motor Vehicle Fuel Account in the Transportation Tax Fund, which would be continued in existence as the Transportation Revenue Fund, and would limit the expenditure of the money deposited in the fund to specified purposes, consistent with the requirements under law for a user fee of this nature. The bill would require the State Board of Equalization to administer the user fees as specified, and would require the fee to be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. This bill would also impose other related provisions.

This bill would also require certain certificates issued related to the fee to be signed under penalty of perjury, and would make certain acts related to exemption certificates a misdemeanor.

Because this bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, and would create additional crimes, it would impose a state-mandated local program.

(2) Existing law establishes as base fee amounts certain driver's license and identification card fees imposed by the Department of Motor Vehicles pursuant to specified provisions of the Vehicle Code. Existing law requires, on January 1 of every year, the department to adjust those base fee amounts by increasing each fee in an amount equal to the increase in the California Consumer Price Index for the prior year, as calculated by the Department of Finance, with amounts equal to or greater than \$0.50 rounded to the next highest whole dollar. Existing law also provides that a statutory increase to the fees is deemed to be a change to the base fee.

This bill would include within this scheme specified fee provisions applicable to restricted firefighter licenses and commercial driver's licenses and would increase, on and after October 1, 2009, or the effective date of this act, whichever is later, the amount of these and other fees subject to this scheme.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) *The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.*

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2009.~~

~~The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.~~

~~This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Part 32 (commencing with Section 61001) is
2 added to Division 2 of the Revenue and Taxation Code, to read:

3
4 PART 32. FUEL USER FEE LAW

5
6 CHAPTER 1. CITATION AND DEFINITIONS

7
8 61001. This part is known and may be cited as the Fuel User
9 Fee Law.

10 61002. Except where the context otherwise requires, the
11 definitions given in this chapter govern the construction of this
12 part.

13 61003. "Aircraft" means any powered contrivance designed
14 for navigation in the air except a rocket or missile.

15 61004. "Alcohol" includes ethanol and methanol.

16 61005. "Approved terminal or refinery" means a terminal or
17 refinery that is operated by a licensed supplier.

1 61006. “Aviation gasoline” means all special grades of
2 gasoline that are suitable for use in aviation reciprocating engines.

3 61007. “Blended fuel” means any mixture of fuel with respect
4 to which a user fee has been imposed and any other liquid, such
5 as kerosene, on which a user fee has not been imposed, other than
6 dyed diesel fuel. Blended fuel also means any conversion of a liquid
7 into fuel. “Conversion of a liquid into fuel” occurs when any liquid
8 that is not included in the definition of fuel and that is outside the
9 bulk transfer/terminal system is sold as fuel, delivered as fuel, or
10 represented to be fuel.

11 61012. “Blender” includes any person that produces or
12 converts blended fuel outside the bulk transfer/terminal system.

13 61013. “Board” means the State Board of Equalization.

14 61014. “Bulk transfer” means any transfer of fuel by pipeline
15 or vessel.

16 61015. “Bulk transfer/terminal system” means the fuel
17 distribution system consisting of refineries, pipelines, vessels, and
18 terminals. Fuel in a refinery, pipeline, vessel, or terminal is in the
19 bulk transfer/terminal system. Fuel in the fuel tank of any engine,
20 or in any railcar, trailer, truck, or other equipment suitable for
21 ground transportation is not in the bulk transfer/terminal system.

22 61016. “Diesel fuel” means any liquid that is commonly or
23 commercially known or sold as a fuel that is suitable for use in a
24 diesel-powered highway vehicle. A liquid meets this requirement
25 if, without further processing or blending, the liquid has practical
26 and commercial fitness for use in the engine of a diesel-powered
27 highway vehicle.

28 However, a liquid does not possess this practical and commercial
29 fitness solely by reason of its possible or rare use as a fuel in the
30 engine of a diesel-powered highway vehicle.

31 “Diesel fuel” does not include kerosene, gasoline, liquefied
32 petroleum gas, natural gas in liquid or gaseous form, or alcohol.

33 61017. “Dyed diesel fuel” means diesel fuel that is dyed under
34 United States Environmental Protection Agency or the Internal
35 Revenue Service rules for high sulfur diesel fuel or low sulfur
36 diesel fuel or any other requirements subsequently set by the United
37 States Environmental Protection Agency or the Internal Revenue
38 Service and considered destined for off-highway uses.

39 61018. “Enterer” includes any person who is the importer of
40 record (under federal customs law) with respect to fuel. If the

1 importer of record is acting as an agent, the person for whom the
2 agent is acting is the enterer. If there is no importer of record of
3 fuel entered into this state, the owner of the fuel at the time it is
4 brought into this state is the enterer.

5 61019. "Entry" means the importing of fuel into this state.
6 However, fuel brought into this state in the fuel tank of a motor
7 vehicle shall not be deemed to be an "entry" if not removed from
8 the fuel tank except as used for the operation of that motor vehicle,
9 except to the extent that the fuel was acquired tax free or user fee
10 free for export or a refund of tax or user fee was claimed as a
11 result of exportation from the state from which that fuel was
12 transported into this state.

13 61019.5. (a) "Exempt bus operation" consists of the following:
14 (1) Any transit district, transit authority, or city owning and
15 operating a local transit system itself or through a wholly owned
16 nonprofit corporation.

17 (2) Any private entity providing transportation services for the
18 transportation of people under contract or agreement, except
19 general franchise agreements, with a public agency authorized to
20 provide public transportation services, only for diesel fuel
21 consumed while providing services under those contracts or
22 agreements entered into subsequent to January 1, 1979.

23 (3) Any passenger stage corporation subject to the jurisdiction
24 of the Public Utilities Commission when the motor vehicles of the
25 passenger stage corporation are exclusively operated in urban or
26 suburban areas or between cities in close proximity for the
27 transportation of persons for hire, compensation, or profit.
28 However, the exemption is not extended to any line or lines
29 operated by the passenger stage corporation that exceed 50 miles
30 of one-way route mileage.

31 (4) Any common carrier of passengers operating exclusively
32 on any line or lines within the limits of a single city between fixed
33 termini or over a regular route, 98 percent of whose operations,
34 as measured by total route mileage operated, are exclusively within
35 the limits of a single city, and who by reason thereof is not a
36 passenger stage corporation subject to the jurisdiction of the Public
37 Utilities Commission.

38 (5) Any school district, community college district, or county
39 superintendent of schools owning, leasing, or operating buses for
40 the purpose of transporting pupils to and from school and for other

1 school or college activities involving pupils, including, but not
2 limited to, field trips and athletic contests.

3 (6) Any private entity providing transportation services for the
4 purposes specified in paragraph (5) under contract or agreement
5 with a school district, community college district, or county
6 superintendent of schools, only for diesel fuel consumed while
7 providing services under those contracts or agreements entered
8 into subsequent to September 30, 1984.

9 (b) "Exempt bus operation" as defined in subdivision (a), shall
10 not be applicable to a charter-party carrier of passengers. The
11 term "charter-party carrier of passengers" has the same meaning
12 as that specified in Section 5360 of the Public Utilities Code and
13 shall further include those transportation services described in
14 subdivisions (a) and (e) of Section 5353 of the Public Utilities
15 Code, if that transportation service is rendered as contract carriage
16 and not as common carriage of passengers.

17 61020. "Feepayer" means any person on whom the user fee
18 is imposed and any person who is required to precollect or collect
19 and remit the user fee under this part.

20 61021. "Finished gasoline" means all products (including
21 gasohol) that are commonly known or sold as gasoline.

22 61022. "Fuel" includes motor vehicle fuel, diesel fuel, and
23 blended fuels, but excludes special fuels.

24 61023. "Fuel-powered train" means any fuel-powered
25 equipment or machinery that rides on rails, including equipment
26 or machinery that transports passengers, freight, or a combination
27 of both passengers and freight, and equipment or machinery that
28 only carries freight or passengers and the operator thereof. Thus,
29 the term includes a locomotive, work train, switching engine, and
30 track maintenance machine.

31 61024. "Fuel production facility" means a facility, other than
32 a refinery, in which fuel is produced.

33 61025. "Fuel tank" means any receptacle on a motor vehicle
34 from which fuel is supplied for the operation of a motor vehicle.

35 61026. "Gallon" means the United States gallon of 231 cubic
36 inches or the volumetric gallon adjusted to 60 degrees Fahrenheit
37 when the invoice and settlement is made on the temperature
38 corrected gallonage.

39 61028. "Gasoline" means finished gasoline and gasoline
40 blendstocks.

1 61029. “Gasoline blendstocks” means any petroleum product
2 component of gasoline.

3 61030. “Highway” includes a way or place, of whatever nature,
4 publicly maintained and open to the use of the public for purposes
5 of vehicular travel.

6 61031. “In this state” or “in the state” means within the
7 exterior limits of the State of California and includes all territory
8 within these limits owned by or ceded to the United States of
9 America.

10 61032. “Industrial user” means any person that receives
11 gasoline blendstocks by bulk transfer for its own use in the
12 manufacture of any product other than finished gasoline.

13 61033. “Interstate user” includes any person who uses fuel or
14 special fuel in the operation of a qualified motor vehicle in this
15 state and who operates the qualified motor vehicle within and
16 without this state or the United States.

17 61034. “Jet fuel” means aviation grade kerosene.

18 61036. “Licensed supplier” includes any enterer, position
19 holder, refiner, terminal operator, throughputter, or wholesaler
20 that is licensed as a supplier pursuant to Section 61561.

21 61037. “Motor vehicle” includes every self-propelled vehicle
22 operated or suitable for operation on the highway, except a vehicle
23 used exclusively upon stationary rails or tracks.

24 61037.5. “Motor vehicle fuel” means gasoline and aviation
25 gasoline.

26 61038. “Natural gas” means naturally occurring mixtures of
27 hydrocarbon gases and vapors consisting principally of methane,
28 whether in gaseous or liquid form.

29 61038.5. “Person” includes any individual, firm, partnership,
30 joint venture, limited liability company, association, social club,
31 fraternal organization, corporation, estate, trust, business trust,
32 receiver, trustee, syndicate, the United States, this state, any
33 county, city and county, municipality, district, or other political
34 subdivision of the state, or any other group or combination acting
35 as a unit.

36 61039. “Petroleum-based diesel fuel” means diesel fuel
37 produced from crude oil or refined petroleum product.

38 61040. “Pipeline” means a fuel distribution system that moves
39 fuel, in bulk, through a pipe, from a refinery to a terminal, from

1 a terminal to another terminal, from a vessel to a terminal, or from
2 a refinery or terminal to a vessel.

3 61041. “Pipeline operator” includes any person that owns,
4 operates, or otherwise controls a pipeline.

5 61042. “Position holder” means any person that holds the
6 inventory position in the fuel, as reflected on the records of the
7 terminal operator. A person holds the inventory position in fuel
8 when that person has a contractual agreement with the terminal
9 operator for the use of storage facilities and terminating services
10 at a terminal with respect to the fuel. “Position holder” includes
11 a terminal operator that owns fuel in its terminal.

12 61043. “Purchase” means the transfer of title to fuel to a buyer
13 for consideration, which may consist of money, services, or other
14 property.

15 61044. “Qualified motor vehicle” means a motor vehicle that
16 is used, designed, or maintained for transportation of persons or
17 property and that has two axles and a gross vehicle weight or
18 registered gross vehicle weight exceeding 26,000 pounds or 11,797
19 kilograms, has three or more axles regardless of weight, or is used
20 in combination, when the weight of that combination exceeds
21 26,000 pounds or 11,797 kilograms gross vehicle weight. Qualified
22 motor vehicle does not include a recreational vehicle.

23 61045. “Racing fuel” means a fuel that meets all the criteria
24 for leaded or unleaded racing fuel, has an octane rating of 100 or
25 higher, and is generally used in vehicles not eligible to be
26 registered for highway use.

27 61046. “Rack” means a mechanism for delivering fuel from a
28 refinery or terminal into a truck, trailer, railroad car, or other
29 means of nonbulk transfer.

30 61048. “Recreational vehicle” means a vehicle such as a motor
31 home, pickup truck with attached camper, and bus when used
32 exclusively for personal pleasure by an individual. In order to
33 qualify as a recreational vehicle, the vehicle shall not be used in
34 connection with any business endeavor.

35 61049. “Refiner” includes any person that owns, operates, or
36 otherwise controls a refinery.

37 61050. “Refinery” means a facility used to produce fuel from
38 crude oil, unfinished oils, natural gas liquids, or other
39 hydrocarbons, and from which fuel may be removed by pipeline,
40 by vessel, or at a rack.

1 61051. “Removal” means any physical transfer of fuel, and
2 any use of fuel other than as a material in the production of fuel.
3 However, fuel is not removed when it evaporates or is otherwise
4 lost or destroyed.

5 61052. “Retailer” means any person who sells fuel in this state
6 directly to the user of the fuel.

7 61053. “Sale” means the transfer of title of fuel (other than
8 fuel in a terminal) to a buyer for consideration, which may consist
9 of money, services, or other property.

10 61054. “Special fuel” means alcohol, jet fuel, racing fuel,
11 liquefied petroleum gas, liquefied natural gas, compressed natural
12 gas, kerosene, and dyed diesel fuel.

13 61055. “Supplier” includes any person who is any of the
14 following:

15 (a) Blender, as defined in Section 61012.

16 (b) Enterer, as defined in Section 61018.

17 (c) Position holder, as defined in Section 61042.

18 (d) Refiner, as defined in Section 61049.

19 (e) Terminal operator, as defined in Section 61057.

20 (f) Throughputter, as defined in Section 61058.

21 (g) Wholesaler, as defined in Section 61066.

22 61056. “Terminal” means a fuel storage and distribution
23 facility that is supplied by pipeline or vessel, and from which fuel
24 may be removed at a rack. “Terminal” includes a fuel production
25 facility where fuel is produced and stored and from which fuel
26 may be removed at a rack.

27 61057. “Terminal operator” includes any person that owns,
28 operates, or otherwise controls a terminal.

29 61058. “Throughputter” means any person that owns fuel
30 within the bulk transfer/terminal system (other than in a terminal)
31 or is a position holder.

32 61059. “Train operator” includes any person that owns,
33 operates, or controls a fuel-powered train and is licensed as a
34 railroad by a state or federal agency.

35 61060. “Use” means the purchase of fuel within this state for
36 purposes other than resale.

37 61061. “User” means a person purchasing fuel for use.

38 61062. “User fee” means the fuel user fee imposed under this
39 part.

1 61063. “User fee-paid fuel” or “user fee paid” means the
2 gallons of fuel acquired on either a temperature corrected or
3 volumetric basis on which the user fee in Section 61101 has been
4 paid or precollected at the time of, or prior to, the acquisition by
5 the supplier, retailer, or user.

6 61064. “Vessel” means a waterborne vessel used for
7 transporting fuel.

8 61065. “Vessel operator” means any person that operates or
9 otherwise controls a vessel.

10 61066. “Wholesaler” means every person, other than a retailer,
11 dealing in fuel outside the bulk transfer/terminal system.

12 CHAPTER 2. IMPOSITION OF THE USER FEE

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15 61101. (a) On and after October 1, 2009, a user shall pay the
16 user fee imposed under subdivision (b) on each gallon of fuel used.

17 (b) Commencing October 1, 2009, the user fee rate shall be
18 eighteen cents (\$0.18) per gallon of fuel.

19 (c) All revenues from the user fee shall be used solely for
20 purposes consistent with requirements under law for a user fee of
21 this nature.

22 CHAPTER 3. COLLECTION OF THE USER FEE

23 Article 1. Collection by Retailer

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25
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27 61201. (a) Every retailer shall collect the user fee from each
28 user at the time the fuel is sold or delivered to the user.

29 (b) When fuel is sold or delivered through a keylock mechanism
30 or other unattended mechanism it shall be presumed that the
31 retailer delivered the fuel into the fuel tank of a motor vehicle and
32 the retailer shall collect the user fee from the user.

33 61202. (a) Every retailer shall do one of the following:

34 (1) Add to and state separately on its invoices to the user the
35 user fee required to be collected by the retailer.

36 (2) Post on every service station premises, in a location visible
37 to purchasers, a notice to the effect that the user fee required to
38 be collected by the retailer is included in the price of the fuel, and
39 it shall be presumed that the user fee is included in the cost of the
40 fuel.

1 **(b)** *The user fee required to be collected by the retailer shall be*
2 *displayed on every service station premises at a conspicuous place*
3 *on, at, or near the dispensing apparatus or at or near the point of*
4 *sale, on at least one clearly visible sign.*

5 61203. *The user fee required to be collected by the retailer*
6 *constitutes a debt owed by the retailer to this state. Any amount*
7 *represented as a user fee that is collected from a user, and that*
8 *has not been remitted to the board, shall be deemed a debt owed*
9 *to the State of California by the person required to collect and*
10 *remit the user fee.*

11 61204. *A retailer is relieved from liability to collect and remit*
12 *a user fee that became due and payable under this part insofar as*
13 *the sales of the fuel are represented by accounts that have been*
14 *found worthless and charged off for income tax purposes. If the*
15 *retailer has previously paid the amount of the user fee, it may,*
16 *under rules and regulations prescribed by the board, take a credit*
17 *or refund in that amount. If any of these accounts are thereafter*
18 *in whole or in part collected by the retailer, the gallons of fuel*
19 *represented by the amounts collected shall be included in the first*
20 *return filed after the collection and the amount of the user fee*
21 *thereon paid with the return. The board may, at its option, require*
22 *the retailer to submit periodical reports listing accounts delinquent*
23 *for a 90-day period or over.*

24
25 Article 2. *Precollection by Supplier*
26

27 61210. *The supplier shall precollect the user fee specified in*
28 *Section 61101 on the occurrence of all of the following, and, if a*
29 *sale does not occur at the time of imposition of the precollection*
30 *obligation, the supplier shall pay the user fee required to be*
31 *precollected:*

32 **(a)** *The removal of fuel in this state from a terminal if the fuel*
33 *is removed at the rack.*

34 **(b)** *The removal of fuel in this state from any refinery if either*
35 *of the following applies:*

36 **(1)** *The removal is by bulk transfer and the refiner or the owner*
37 *of the fuel immediately before the removal is not a licensed*
38 *supplier.*

39 **(2)** *The removal is at the refinery rack.*

1 (c) *The entry of fuel into this state for sale, consumption, use,*
2 *or warehousing if either of the following applies:*

3 (1) *The entry is by bulk transfer and the enterer is not a licensed*
4 *supplier.*

5 (2) *The entry is not by bulk transfer.*

6 (d) *The removal or sale of blended fuel in this state by the*
7 *blender thereof.*

8 (e) *The resale of fuel outside the bulk transfer/terminal system,*
9 *other than by a retailer.*

10 61211. *The user fee required to be precollected by the supplier*
11 *constitutes a debt owed by the supplier to this state until paid to*
12 *the board, until satisfactory proof has been submitted to prove*
13 *that the user of the fuel has paid the user fee, or until a supplier*
14 *who has consumed the fuel has paid the user fee to the board. On*
15 *each subsequent sale of that fuel, each supplier shall collect from*
16 *his or her purchaser a precollection of the user fee using the rate*
17 *applicable at the time of sale. Each supplier shall provide his or*
18 *her purchaser with an invoice for, or other evidence of, the*
19 *collection of the precollected amounts which shall be separately*
20 *stated thereon.*

21 61212. *Any person that produces blended fuel outside the bulk*
22 *transfer/terminal system (the blender) shall precollect the user fee*
23 *as provided in subdivision (d) of Section 61210.*

24 61213. *Every enterer shall precollect the user fee on fuel*
25 *imported into this state as provided in subdivision (c) of Section*
26 *61210.*

27 61214. *Every position holder shall precollect the user fee on*
28 *the removal of fuel from a terminal as provided in subdivision (a)*
29 *of Section 61210.*

30 61215. *Every refiner shall precollect the user fee on the*
31 *removal of fuel from a refinery as provided in subdivision (b) of*
32 *Section 61210.*

33 61216. *Every wholesaler shall precollect the user fee on the*
34 *sale of fuel as provided in subdivision (e) of Section 61210.*

35 61217. *The terminal operator is jointly and severally liable*
36 *for the precollected user fee imposed under Section 61210 if both*
37 *of the following apply:*

38 (a) *The position holder with respect to the fuel is a person other*
39 *than the terminal operator and is not a licensed supplier.*

1 ***(b) The terminal operator has not met the conditions of Section***
2 ***61218.***

3 ***61218. A terminal operator is not liable for the precollected***
4 ***user fee under Section 61217, if, at the time of the removal, all of***
5 ***the following apply:***

6 ***(a) The terminal operator is a licensed supplier.***

7 ***(b) The terminal operator has an unexpired notification***
8 ***certificate from the position holder as required by the Internal***
9 ***Revenue Service.***

10 ***(c) The terminal operator has no reason to believe that any***
11 ***information in the certificate is false.***

12 ***61219. (a) The board may accept from the person who receives***
13 ***fuel removed at a refinery or terminal rack an amount equal to***
14 ***the precollected user fee due and required to be paid by the refiner***
15 ***or position holder upon the removal of the fuel from a refinery or***
16 ***terminal rack, as if the amount were payment of the precollected***
17 ***user fee by the refiner or position holder under Section 61210, as***
18 ***the case may be, if the Internal Revenue Service authorizes payment***
19 ***of federal fuel taxes by the receiving party under a two-party***
20 ***exchange agreement or similar arrangement.***

21 ***(b) The refiner or position holder shall remain primarily liable***
22 ***for the precollected user fee imposed by Section 61210 for fuel***
23 ***removed at the refinery or terminal rack, as the case may be, plus***
24 ***any penalty or interest, until the amount is finally paid and credited***
25 ***to the account of the responsible refiner or position holder.***
26 ***However, the board, at its discretion, may relieve the refiner or***
27 ***position holder from primary liability for the precollected user fee***
28 ***imposed by Section 61210 and hold another person primarily liable***
29 ***for the precollected user fee if (1) the Internal Revenue Service***
30 ***authorizes payment of fuel taxes by the receiving party under a***
31 ***two-party exchange agreement, and (2) another person is primarily***
32 ***liable for payment of the tax under the Internal Revenue Service***
33 ***approach to two-party exchange agreements, and (3) the board***
34 ***elects to follow the Internal Revenue Service approach.***

35 ***(c) The board may adopt those regulations as it deems***
36 ***appropriate to carry out this section.***

37 ***61220. (a) For the purpose of the proper administration of***
38 ***this part and to prevent evasion of the user fee, unless the contrary***
39 ***is established, it shall be presumed that all fuel received at a***
40 ***terminal in this state, imported into this state, or refined and placed***

1 into storage for removal at a refinery in this state or blended fuel
2 blended or converted in this state and no longer in the possession
3 of the supplier has been removed or sold by the supplier.

4 (b) The presumption shall not apply if the supplier proves to
5 the satisfaction of the board that both of the following apply:

6 (1) The supplier has exercised ordinary care in entrusting
7 control or possession of the fuel to another person.

8 (2) The person to whom the supplier has entrusted the control
9 or possession of the fuel as bailee, consignee, employee, or agent
10 caused a removal or sale by the act of converting to that person's
11 own use the fuel so entrusted to that person by the supplier.

12 (c) If the supplier proves to the satisfaction of the board the
13 existence of both of the circumstances in paragraphs (1) and (2)
14 of subdivision (b), then the person who converted the fuel to his
15 or her own use, as well as any other person receiving that fuel
16 with the knowledge that it was so converted, shall be liable for the
17 precollected user fee imposed upon that removal or sale, and all
18 of those persons shall be considered as suppliers for the purpose
19 of filing returns and collection of the user fee.

20 21 Article 3. Payment by User

22
23 61230. (a) Every user is liable for the user fee until the user
24 fee has been paid to the state and shall directly remit to the board
25 the user fee specified in Section 61101.

26 (b) Notwithstanding subdivision (a), payment to a retailer
27 registered under this part is sufficient to relieve the user from
28 further liability for the user fee imposed under this part.

29 30 CHAPTER 4. EXEMPTIONS

31
32 61301. (a) The provisions of this part requiring the payment
33 or precollection of user fees on fuel do not apply to any of the
34 following:

35 (1) Any entry or removal from a terminal or refinery of fuel
36 transferred in bulk to a refinery or terminal if the persons involved
37 (including the terminal operator) are licensed suppliers.

38 (2) The removal of fuel, if all of the following apply:

39 (A) The fuel is removed by railroad car from an approved
40 refinery and is received at an approved terminal.

1 (B) *The refinery and the terminal are operated by the same*
2 *licensed supplier.*

3 (C) *The refinery is not served by pipeline (other than a pipeline*
4 *for the receipt of crude oil) or vessel.*

5 (3) *Fuel which, pursuant to the contract of sale, is required to*
6 *be shipped and is shipped to a point outside of this state by a*
7 *supplier by means of any of the following:*

8 (A) *Facilities operated by the supplier.*

9 (B) *Delivery by the supplier to a carrier, customs broker, or*
10 *forwarding agency, whether hired by the purchaser or not, for*
11 *shipment to the out-of-state point.*

12 (C) *Delivery by the supplier to any vessel clearing from a port*
13 *of this state for a port outside of this state and actually exported*
14 *from this state in the vessel.*

15 (4) *Fuel sold by credit card certified by the United States*
16 *Department of State to any consulate officer or consulate employee*
17 *of a foreign government who is not engaged in any private*
18 *occupation for gain within this state, who uses the fuel in a motor*
19 *vehicle that is registered with the United States Department of*
20 *State, and whose government has done either of the following:*

21 (A) *Entered into a treaty with the United States providing for*
22 *the exemption of its representatives from national, state, and*
23 *municipal taxes.*

24 (B) *Granted a similar exemption to representatives of the United*
25 *States.*

26 (5) *Fuel sold to the United States Armed Forces for use in ships*
27 *or aircraft, or for use outside this state.*

28 (6) *Gasoline blendstocks removed from a pipeline or vessel,*
29 *when the gasoline blendstocks are received by a licensed industrial*
30 *user.*

31 (7) *Any entry or removal from a terminal or refinery of gasoline*
32 *blendstocks that are received at an approved terminal or refinery*
33 *if the person otherwise liable for precollection of the user fee is a*
34 *licensed supplier.*

35 (8) *Any entry or removal from a terminal or refinery of gasoline*
36 *blendstocks not in connection with a sale if the person otherwise*
37 *liable for precollection of the user fee is a licensed supplier and*
38 *the person does not use the gasoline blendstocks to produce*
39 *finished gasoline.*

1 (9) Any entry or removal from a terminal or refinery of gasoline
2 blendstocks in connection with a sale if the person otherwise liable
3 for precollection of the user fee is a licensed supplier and at the
4 time of sale, that person has an unexpired exemption certificate
5 described in Section 61302 from the buyer and has no reason to
6 believe any information in the certificate is false.

7 (10) If paragraph (8) or (9) applied to the removal or entry of
8 gasoline blendstocks, any resale made of gasoline blendstocks,
9 when the person has an unexpired exemption certificate described
10 in Section 61302 from the buyer and has no reason to believe any
11 information in the certificate is false.

12 (11) Fuel sold by a supplier to a train operator for use in a
13 fuel-powered train or for other off-highway use and the supplier
14 has on hand an exemption certificate described in Section 61303
15 from the train operator.

16 (12) Any entry, removal, or sale of special fuel.

17 (13) Anyone who is otherwise exempt to such user fees on fuel
18 pursuant to the United States Constitution, federal law, or the
19 California Constitution.

20 (14) Diesel fuel sold by a supplier for any of the following:

21 (A) Use on a farm for farming purposes.

22 (B) Use in an exempt bus operation.

23 (C) Use in a diesel-powered highway vehicle that is operated
24 off the highway.

25 (D) Use in a diesel-powered highway vehicle that is owned and
26 operated by a government entity.

27 (E) Use by the United States and its agencies and
28 instrumentalities.

29 (b) For purposes of this section:

30 (1) "Carrier" means a person or firm engaged in the business
31 of transporting for compensation property owned by other persons,
32 and includes both common and contract carriers.

33 (2) "Forwarding agent" means a person or firm engaged in
34 the business of preparing property for shipment or arranging for
35 its shipment.

36 61302. (a) The certificate to be provided by a buyer of gasoline
37 blendstocks consists of a statement that is signed under penalty of
38 perjury by a person with authority to bind the buyer. A new
39 certificate must be given if any information in the current certificate
40 changes. The certificate may be included as part of any business

records normally used to document a sale. The certificate expires on the earliest of the following dates:

(1) The date one year after the effective date of the certificate.

(2) The date a new certificate is provided by the buyer to the seller.

(b) An exemption certificate for gasoline blendstocks that states that the blendstocks will not be used to produce finished gasoline shall contain that information and be in the form as the board may prescribe.

61303. (a) The certificate to be provided by a train operator consists of a statement that is signed under penalty of perjury by a person with authority to bind the buyer. A new certificate must be given if any information in the current certificate changes. The certificate may be included as part of any business records normally used to document a sale.

(b) An exemption certificate for fuel used in a fuel-powered train or for other off-highway use shall contain that information and be in the form as the board may prescribe.

61304. Prior to issuing an exemption certificate as provided in Section 61303, the train operator shall obtain a license from the board.

61305. If a purchaser gives an exemption certificate for fuel pursuant to this article to the effect that the fuel purchased will be used in an exempt manner, and sells the fuel or uses the fuel in some other manner or for some other purpose, the purchaser will be liable for collection and payment of the user fee under this part. The user fee, applicable penalties, and interest shall become due and payable and shall be ascertained and determined in the same manner as prescribed in Section 55101.

61306. (a) Any person, including any officer or employee of a corporation, who gives an exemption certificate pursuant to this chapter for fuel that he or she knows at the time of purchase is not to be used by him or her or the corporation in an exempt manner, for the purpose of evading payment of the amount of the user fee applicable to the transaction, is guilty of a misdemeanor.

(b) Any person, including any officer or employee of a corporation, who gives an exemption certificate for fuel pursuant to this chapter that he or she knows at the time of purchase is not to be used by him or her or the corporation in an exempt manner, is liable to the state for the amount of the user fee that would be

1 *due if he or she had not given that certificate. In addition to the*
2 *user fee, the person shall be liable to the state for a penalty of 25*
3 *percent of the user fee or one thousand dollars (\$1,000), whichever*
4 *is greater, for each certificate issued for personal gain or to evade*
5 *the payment of user fees.*

6
7 *CHAPTER 5. ADMINISTRATION*
8

9 *61401. The user fee imposed pursuant to this part shall be*
10 *administered and collected by the board in accordance with the*
11 *Fee Collection Procedures Law (Division 30 (commencing with*
12 *Section 55001).*

13
14 *CHAPTER 6. ADMINISTRATIVE PROVISIONS*
15

16 *Article 1. Administrative Provisions*
17

18 *61501. Where an administrative provision in the Fee Collection*
19 *Procedures Law (Division 30 (commencing with Section 55001))*
20 *is inconsistent with an administrative provision in this part, the*
21 *administrative provision in this part shall be applicable.*

22 *61502. The board may adopt regulations to implement this*
23 *part.*

24
25 *Article 2. Distribution of Proceeds*
26

27 *61510. The Controller shall transmit all money received by*
28 *him or her in payment of fees, interest, and penalties due under*
29 *this part to the Treasurer who shall deposit it in the State Treasury*
30 *and credit it to the Motor Vehicle Fuel Account in the*
31 *Transportation Tax Fund, which fund is continued in existence as*
32 *the Transportation Revenue Fund. All fees paid and accepted for*
33 *issuance or reinstatement of licenses under this part shall be*
34 *deposited by the board in the State Treasury to the credit of the*
35 *same account.*

36 *Any reference in any law or regulation to the Motor Vehicle*
37 *Fuel Fund shall be deemed to refer to the Motor Vehicle Fuel*
38 *Account in the Transportation Revenue Fund. Any reference in*
39 *any law or regulation to the Transportation Tax Fund shall be*
40 *deemed to refer to the Transportation Revenue Fund.*

1 61511. *The money deposited to the credit of the Motor Vehicle*
2 *Fuel Account shall be available, upon appropriation, for*
3 *expenditure, allocation, or transfer as provided in this article.*

4 61512. *The money deposited to the credit of the Motor Vehicle*
5 *Fuel Account may be expended for the following purposes:*

6 (a) *To pay the refunds authorized in this part, including refunds*
7 *due on account of judgments for the return of fees illegally*
8 *collected.*

9 (b) *To the Controller, to carry out any duties imposed upon him*
10 *or her by this part.*

11 (c) *To the board, to carry out any duties imposed upon it by this*
12 *part.*

13 (d) *To pay the pro rata share of the overhead and general*
14 *administrative expense of the Controller and the board attributable*
15 *to duties imposed by this part. The pro rata share is payable upon*
16 *presentation of a claim against any appropriation from the Motor*
17 *Vehicle Fuel Account for the support of the Controller or the board,*
18 *as the case may be.*

19 61513. *Subject to the provisions of this chapter, the money*
20 *deposited to the credit of the Motor Vehicle Fuel Account shall be*
21 *transferred to the State Transportation Fund, which is continued*
22 *in existence, as provided in this chapter.*

23 61514. *Subject to Sections 61511 and 61512, all moneys*
24 *deposited to the credit of the Motor Vehicle Fuel Account*
25 *attributable to the distribution of motor vehicle fuel for use or used*
26 *in propelling an aircraft in the state shall be transferred to the*
27 *Aeronautics Account in the State Transportation Fund, for*
28 *allocation as follows:*

29 (a) *To pay the pro rata cost of the Controller and the board*
30 *under subdivisions (b), (c), and (d) of Section 61512.*

31 (b) *To pay for the support of the Department of Transportation,*
32 *for the administration of the State Aeronautics Act (Division 9*
33 *(commencing with Section 21001) of the Public Utilities Code).*

34 (c) *Remaining balance to be available for expenditures in*
35 *accordance with Sections 21602, and 21682 to 21684, inclusive,*
36 *of the Public Utilities Code.*

37 61515. *Subject to Sections 61511 and 61512, there shall be*
38 *transferred from the money deposited to the credit of the Motor*
39 *Vehicle Fuel Account to the Harbors and Watercraft Revolving*
40 *Fund, for expenditure in accordance with Division 1 (commencing*

1 with Section 30) of the Harbors and Navigation Code, the sum of
2 six million six hundred thousand dollars (\$6,600,000) per annum,
3 representing the amount of money in the Motor Vehicle Fuel
4 Account attributable to fees imposed on distributions of motor
5 vehicle fuel used or usable in propelling vessels. The actual amount
6 shall be calculated using the annual reports of registered boats
7 prepared by the Department of Motor Vehicles for the United
8 States Coast Guard and the formula and method of the December
9 1972 report prepared for this purpose and submitted to the
10 Legislature on December 26, 1972, by the Director of
11 Transportation. If the amount transferred during each fiscal year
12 is in excess of the calculated amount, the excess shall be
13 retransferred from the Harbors and Watercraft Revolving Fund
14 to the Motor Vehicle Fuel Account. If the amount transferred is
15 less than the amount calculated, the difference shall be transferred
16 from the Motor Vehicle Fuel Account to the Harbors and
17 Watercraft Revolving Fund. No adjustment shall be made if the
18 computed difference is less than fifty thousand dollars (\$50,000),
19 and the amount shall be adjusted to reflect any temporary or
20 permanent increase or decrease that may be made in the rate under
21 the Fuel User Fee Law. Payments pursuant to this section shall
22 be made prior to payments pursuant to Section 61513.

23 When deemed necessary by the Department of Transportation
24 and the Department of Boating and Waterways, the Department
25 of Transportation, after consultation with the Department of
26 Boating and Waterways, shall prepare, or cause to be prepared,
27 an updated report setting forth the current estimate of the amount
28 of money credited to the Motor Vehicle Fuel Account attributable
29 to taxes imposed on distributions of motor vehicle fuel used or
30 usable in propelling vessels. The Department of Transportation
31 shall submit the report to the Legislature upon its completion.

32 61516. Subject to Sections 61511 and 61512, there shall be
33 transferred from the money deposited to the credit of the Motor
34 Vehicle Fuel Account to the Department of Food and Agriculture
35 Fund, during the second quarter of each fiscal year, an amount
36 equal to the estimate contained in the most recent report prepared
37 pursuant to this section.

38 The amounts are not subject to Section 6357 with respect to the
39 collection of sales and use taxes thereon, and represent the portion
40 of receipts in the Motor Vehicle Fuel Account during a calendar

1 year that were attributable to agricultural off-highway use of motor
2 vehicle fuel which is subject to refund pursuant to Section 61630,
3 less gross refunds allowed by the Controller during the fiscal year
4 ending June 30 following the calendar year to persons entitled to
5 refunds for agricultural off-highway use pursuant to Section 61630.
6 Payments pursuant to this section shall be made prior to payments
7 pursuant to Section 61513.

8 On or before September 30th of each odd-numbered year, the
9 Director of Transportation and the Director of Food and
10 Agriculture shall jointly prepare, or cause to be prepared, a report
11 setting forth the current estimate of the amount of money in the
12 Motor Vehicle Fuel Account attributable to agricultural
13 off-highway use of motor vehicle fuel, which is subject to refund
14 pursuant to Section 61630 less gross refunds allowed by the
15 Controller to persons entitled to refunds for agricultural
16 off-highway use pursuant to Section 61630; and they shall submit
17 a copy of the report to the Legislature.

18 61517. (a) Subject to Sections 61511 and 61512, on the first
19 day of every month, there shall be transferred from money
20 deposited in the Motor Vehicle Fuel Account to the Off-Highway
21 Vehicle Trust Fund created by Section 38225 of the Vehicle Code
22 an amount determined on the basis of the estimate contained in
23 the most recent report prepared pursuant to this section.

24 (b) The amount transferred pursuant to subdivision (a)
25 represents the portion of receipts in the Motor Vehicle Fuel
26 Account that is attributable to fees imposed upon distributions of
27 motor vehicle fuel used in the off-highway operation of vehicles
28 identified by being currently registered as off-highway vehicles as
29 required by Division 16.5 (commencing with Section 38000) of
30 the Vehicle Code for which a refund has not been claimed.
31 Transfers made pursuant to this section shall be made prior to
32 transfers pursuant to Section 61513.

33 (c) On or before August 15, 1973, and every two years
34 thereafter, the Department of Transportation shall prepare, or
35 cause to be prepared, in cooperation with the Department of Parks
36 and Recreation, a report setting forth the current estimate of the
37 amount of money credited to the Motor Vehicle Fuel Account that
38 is attributable to fees imposed on distributions of motor vehicle
39 fuel used in the off-highway operation of vehicles identified by
40 being currently registered as off-highway vehicles as required by

1 *Division 16.5 (commencing with Section 38000) of the Vehicle*
2 *Code for which a refund has not been claimed, and shall submit*
3 *a copy of the report to the Legislature.*

4 61518. (a) *Subject to Section 61512, on the first day of every*
5 *month, there shall be transferred from money deposited to the*
6 *credit of the Motor Vehicle Fuel Account to the Off-Highway*
7 *Vehicle Trust Fund created by Section 38225 of the Vehicle Code*
8 *an amount determined on the basis of the estimate contained in*
9 *the most recent report prepared pursuant to this section.*

10 (b) *The amount transferred pursuant to subdivision (a)*
11 *represents the money deposited to the credit of the Motor Vehicle*
12 *Fuel Account that is attributable to fees imposed upon distributions*
13 *of motor vehicle fuel used in motor vehicles subject to registration*
14 *under Division 3 (commencing with Section 4000) of the Vehicle*
15 *Code, while engaged in off-highway recreational use, for which*
16 *a refund has not been claimed, or for which no person is entitled*
17 *to a refund. Transfers made pursuant to this section shall be made*
18 *prior to transfers pursuant to Section 61513.*

19 (c) *On or before August 15, 1975, and every two years*
20 *thereafter, the Department of Transportation shall prepare, or*
21 *cause to be prepared, in cooperation with the Department of Parks*
22 *and Recreation, a report, a copy of which shall be submitted to*
23 *the Legislature, setting forth the current estimate of the amount*
24 *of money credited to the Motor Vehicle Fuel Account that is*
25 *attributable to taxes imposed on distributions of motor vehicle fuel*
26 *used in motor vehicles subject to registration under Division 3*
27 *(commencing with Section 4000) of the Vehicle Code, while*
28 *engaged in off-highway recreational use, and for which a refund*
29 *has not been claimed, or for which no person is entitled to a refund.*

30 (d) *It is the intent of the Legislature that the off-highway*
31 *recreational use, to be determined by the Department of*
32 *Transportation pursuant to this section, be that usage by vehicles*
33 *subject to registration under Division 3 (commencing with Section*
34 *4000) of the Vehicle Code, for recreation or the pursuit of*
35 *recreation on surfaces where the use of vehicles registered under*
36 *Division 16.5 (commencing with Section 38000) of the Vehicle*
37 *Code may occur.*

38 61519. (a) *The Conservation and Enforcement Services*
39 *Account is continued in existence as an account in the Off-Highway*
40 *Vehicle Trust Fund. Subject to Sections 61511 and 61512, on the*

1 *first day of every month there shall be transferred from money*
2 *deposited in the Motor Vehicle Fuel Account to the Conservation*
3 *and Enforcement Services Account the total amount determined*
4 *on the basis of the estimates contained in this section.*

5 *(b) On or before August 15, 1987, and every two years*
6 *thereafter, the Department of Transportation shall prepare, or*
7 *cause to be prepared, in cooperation with the Department of Parks*
8 *and Recreation, a report setting forth the current estimate of the*
9 *amount of money credited to the Motor Vehicle Fuel Account that*
10 *is attributable to fees imposed upon distributions of motor vehicle*
11 *fuel estimated to have been used in the off-highway operation of*
12 *vehicles required to be registered as off-highway vehicles by*
13 *Division 16.5 (commencing with Section 38000) of the Vehicle*
14 *Code, but which were not so registered, and shall submit a copy*
15 *of the report to the Legislature.*

16 *(c) Funds in the Conservation and Enforcement Services*
17 *Account shall be allocated to the Division of Off-Highway Motor*
18 *Vehicle Recreation of the Department of Parks and Recreation for*
19 *expenditure when appropriated by the Legislature for the purposes*
20 *of Section 5090.64 of the Public Resources Code.*

21 *(d) On or before January 1, 2005, the Division of Off-Highway*
22 *Motor Vehicle Recreation in the Department of Parks and*
23 *Recreation shall submit a report to the Legislature that identifies*
24 *the appropriate level of funding necessary to sustain conservation*
25 *and enforcement needs, grant areas, state vehicular recreation*
26 *areas, capital outlay, and division support, based upon an analysis*
27 *of program income and expenditures during the preceding five*
28 *fiscal years and the findings contained in the most recent fuel tax*
29 *study.*

30 *61519.1. The Controller shall withhold from any funds*
31 *transferred pursuant to any section of this article an amount equal*
32 *to the cost, as determined by the Department of Transportation,*
33 *to the State Highway Account for preparing any report needed in*
34 *order to establish the appropriate amount of any such transfer.*
35 *The Controller shall transfer such amounts withheld to the State*
36 *Highway Account in the State Transportation Fund.*

37 *61519.2. By the 28th day of each calendar month, the balance*
38 *remaining to the credit of the Motor Vehicle Fuel Account at the*
39 *close of business on the 23rd day of the same month, after payments*
40 *of refunds and administration and enforcement, as provided for*

1 *in Section 61512, shall, on order of the Controller, be transferred*
2 *to the Highway Users Revenue Account in the Transportation*
3 *Revenue Fund.*

4 *61519.3. The board may, without at the time furnishing*
5 *vouchers and itemized statements, draw from the Motor Vehicle*
6 *Fuel Account a sum not to exceed five thousand dollars (\$5,000).*
7 *The sum so drawn shall be used as a revolving fund where cash*
8 *advances are necessary.*

9 *61519.4. The board may pay out of the appropriations made*
10 *to it from the Motor Vehicle Fuel Account all expenses incurred*
11 *in the prosecution before any court of this state of any person*
12 *charged with the violation of this part.*

13
14 *Article 3. Security*
15

16 *61520. The board, whenever it deems it necessary to ensure*
17 *compliance with this part or any rule or regulation adopted under*
18 *this part, may require any person required to obtain a license*
19 *under this chapter to deposit security as the board may determine*
20 *appropriate. The amount of the security shall be fixed by the board*
21 *but shall not be more than three times the estimated average*
22 *monthly precollected or collected user fee liability of the person.*
23 *The total amount of security shall not be in excess of one million*
24 *dollars (\$1,000,000) where the person has established to the*
25 *satisfaction of the board that this security, together with property*
26 *to which a lien attaches, is sufficient security to ensure payment*
27 *of precollected or collected user fees equivalent to three times the*
28 *estimated average monthly precollected or collected user fee*
29 *liability of the person. The amount of the security may be increased*
30 *or decreased by the board at any time. Any security in the form of*
31 *cash or insured deposits in banks and savings and loan institutions*
32 *shall be held by the board in trust to be used solely in the manner*
33 *provided for in this section and Section 61521. Any security in the*
34 *form of a bond or bonds shall be duly executed by an admitted*
35 *surety insurer, payable to the state, conditioned upon faithful*
36 *performance of all the requirements of this part, and expressly*
37 *providing for the payment of all precollected or collected user*
38 *fees, penalties, and other obligations of the person arising out of*
39 *this part. Security held by the board shall be released after a*
40 *three-year period in which the person has filed all returns and*

1 *paid all precollected or collected user fees to the state or any*
2 *amount of precollected or collected user fees required to be*
3 *collected and paid to the state within the time required.*

4 *61521. If, at the time a person ceases to operate under this*
5 *part, the board holds a security pursuant to Section 61520 in the*
6 *form of cash or insured deposits in banks or savings and loan*
7 *institutions, the security applied to the account of the feepayer*
8 *shall be deemed to be a payment on account of any liability of the*
9 *feepayer to the board on the date the person ceases to operate*
10 *under this part.*

11
12 *Article 4. Returns and Payments*
13

14 *61530. Each supplier shall prepare and file with the board a*
15 *return in the form as prescribed by the board using electronic*
16 *media, showing, by transaction, the number of gallons of fuel*
17 *received and the number of gallons of fuel removed, sold for resale,*
18 *or entered within this state during each calendar month, or that*
19 *monthly period ending during that calendar month as the board*
20 *may authorize, the amount of precollected user fee collected or*
21 *otherwise required to be precollected for the month covered by*
22 *the return, and other information as the board deems necessary*
23 *for the proper administration of this part. The person shall file the*
24 *return on or before the last day of the month following the monthly*
25 *period to which it relates, together with a remittance payable to*
26 *the board for the amount of precollected user fee due for that*
27 *period less whatever amounts may have been paid for the same*
28 *period because of returns, prepayment forms, and payments of*
29 *precollected user fees. To facilitate the administration of this part,*
30 *the board may require the filing of the returns for other than*
31 *monthly periods. Returns shall be authenticated in a form or*
32 *pursuant to methods as may be prescribed by the board.*

33 *61531. Each retailer shall prepare and file with the board a*
34 *return in the form as prescribed by the board, which may include,*
35 *but not be limited to, electronic media showing the number of*
36 *gallons of fuel received, by transaction, and the total number of*
37 *gallons of fuel sold within this state during each calendar month,*
38 *the amount of precollected user fee paid during the month and the*
39 *amount of user fee collected or otherwise required to be collected*
40 *during the month covered by the return, and other information as*

1 *the board deems necessary for the proper administration of this*
2 *part. The person shall file the return on or before the last day of*
3 *the month following the monthly period to which it relates, together*
4 *with a remittance payable to the board for the amount of user fee*
5 *collected or required to be collected for that period less whatever*
6 *amounts of precollected user fee may have been paid for the same*
7 *period. To facilitate the administration of this part, the board may*
8 *require the filing of the returns for other than monthly periods.*
9 *Returns shall be authenticated in a form or pursuant to methods*
10 *as may be prescribed by the board.*

11
12 *Article 5. Prepayments*
13

14 *61540. The provisions of this article apply to suppliers required*
15 *to file a supplier's return pursuant to Section 61530.*

16 *61541. Upon written notification by the board, any person*
17 *whose estimated precollected user fee liability under this part*
18 *averages nine hundred thousand dollars (\$900,000) or more per*
19 *month, as determined by the board, shall, without regard to the*
20 *precollected user fee in any one month, make a prepayment as*
21 *prescribed in this section. The prepayment requirement may be*
22 *satisfied by making a prepayment of an amount not less than 95*
23 *percent of the precollected user fee liability for the month to which*
24 *the prepayment applies or a prepayment of not less than 95 percent*
25 *of the amount of the precollected user fee liability reported for the*
26 *previous month. Prepayments shall be made for the monthly*
27 *periods designated by the board and during each succeeding*
28 *monthly period until further notification by the board in writing.*

29 *61542. Except in the case of a person required to remit amounts*
30 *due in accordance with Article 1.1 (commencing with Section*
31 *55050) of Division 30, for purposes of Section 61541, each*
32 *prepayment shall be accompanied by a report of the amount of*
33 *that prepayment in a form prescribed by the board and shall be*
34 *filed with the board on or before the 15th day following each*
35 *monthly period together with a remittance payable to the board*
36 *of the amount due.*

37 *61543. The amount of the prepayment shall constitute a credit*
38 *against the amount of the precollected user fees due and payable*
39 *for the monthly period for which the prepayment was made and*

1 *for each succeeding monthly prepayment or period until the credit*
2 *is fully utilized.*

3 61544. *In determining whether a person's estimated*
4 *precollected user fee liability averages nine hundred thousand*
5 *dollars (\$900,000) or more per month, the board may consider*
6 *precollected user fee returns filed pursuant to this part as well as*
7 *any information in the board's possession or which may come into*
8 *its possession.*

9 61545. *Any person required to make a prepayment pursuant*
10 *to Section 61541 who fails to make a timely prepayment but makes*
11 *that prepayment before the last day of the month following the*
12 *monthly period for which the prepayment was due, shall also pay*
13 *a penalty of 6 percent of the amount of prepayment.*

14 61546. *Any person required to make a prepayment pursuant*
15 *to Section 61541 who fails to make a prepayment before the last*
16 *day of the month following the monthly period for which the*
17 *prepayment became due and who files a timely return and payment*
18 *for the monthly period for which the prepayment became due shall*
19 *pay a penalty of 6 percent of the amount equal to 95 percent of*
20 *the precollected user fee liability for the monthly period for which*
21 *the required prepayment was not made.*

22 61547. (a) *If the failure to make a prepayment as described*
23 *in Section 61546 is due to negligence or intentional disregard of*
24 *this part or authorized rules and regulations, the penalty shall be*
25 *10 percent, instead of 6 percent.*

26 (b) *If any determination of a deficiency in prepayment is due to*
27 *negligence or intentional disregard of this part or authorized rules*
28 *and regulations, a penalty of 10 percent of the deficiency shall be*
29 *paid.*

30 (c) *The provisions of this section shall not apply to amounts*
31 *subject to any other penalty provisions in this part or in Division*
32 *30 (commencing with Section 55001).*

33 61548. *Notification by the board, provided for in Section 61541,*
34 *may be served personally or by mail for service in a manner*
35 *prescribed in subdivision (d) of Section 55061 for service of notice*
36 *of a deficiency determination.*

Article 6. License for Suppliers and Retailers

61560. Every person, before becoming a supplier under this part, shall apply to the board for a license authorizing the person to engage in business as a supplier on forms prescribed by the board. A supplier's license shall be issued only to a person who is a supplier, as defined in Section 61055. It is unlawful for any person to be a supplier of fuel without first securing a license.

61561. Every person who is a retailer in this state under this part shall apply to the board for a license authorizing the person to engage in business as a retailer on forms prescribed by the board. A retailer's license shall be issued only to a person who is a retailer as defined in Section 61052. It is unlawful for any person to be a retailer of fuel or special fuel in this state without first securing a license.

61562. Before granting a license authorizing a person to engage in business as a supplier or retailer, the board may require the person to file with the board security pursuant to Section 61520. The license issued to any supplier or retailer or user is not transferable and is valid until canceled or revoked.

61563. Every person required to be licensed by the board shall provide the board with the names and addresses of all agents operating in this state, the location of all offices or other places of business in this state, and any other information as the board may require.

Article 7. Denial of License

61580. The board may refuse to issue a license under this part in either of the followings circumstances:

(a) If the application therefor is filed by an applicant who formerly held any license under this part that, prior to the time of filing the application, has been revoked for cause by the board.

(b) If the board determines that the application therefor is not filed in good faith or made by the real person in interest.

61581. Before the refusal, the board shall grant the applicant a hearing and shall give him or her at least 10 days' written notice of the time and place thereof.

61582. The notice shall be addressed to the applicant at his or her address as it appears in the records of the board, and shall

1 *be given in the manner prescribed in subdivision (d) of Section*
2 *55061 for service of notice of a deficiency determination.*

3
4 *Article 8. Revocation of License*
5

6 *61590. The board may revoke the license of any person who*
7 *refuses or neglects to comply with any provisions of this part or*
8 *any rule or regulation of the board prescribed and adopted under*
9 *this part.*

10 *61594. The board may revoke any supplier's license held by*
11 *a person who does not engage in, or who discontinues, the removal,*
12 *entry, or sale of fuel, producing of blended fuel, owning or holding*
13 *inventory position of fuel, owning or operating a refinery or*
14 *terminal, or selling fuel for resale as any of the following:*

15 *(a) A blender, as defined in Section 61012.*

16 *(b) An enterer, as defined in Section 61018.*

17 *(c) A position holder, as defined in Section 61042.*

18 *(d) A refiner, as defined in Section 61049.*

19 *(e) A terminal operator, as defined in Section 61057.*

20 *(f) A throughputter, as defined in Section 61058.*

21 *(g) A wholesaler, as defined in Section 61066.*

22 *61595. The board may revoke any retailer's license held by a*
23 *person who does not engage in, or who discontinues, the selling*
24 *of fuel to users as a retailer, as defined in Section 61052.*

25 *61596. Before revoking any license the board shall notify the*
26 *licensee to show cause, within 10 days after the notice is given,*
27 *why his or her license should not be revoked. The notice shall be*
28 *given in the manner prescribed in subdivision (d) of Section 55061*
29 *for service of notice of a deficiency determination.*

30 *61597. The board may cancel any license issued under this*
31 *part immediately upon surrender thereof but before revoking a*
32 *license the board shall allow the person an opportunity to show*
33 *cause as provided in Section 61596.*

34 *61598. Upon revocation or cancellation of the license of the*
35 *person or upon his or her cessation of business, all fuel remaining*
36 *in his or her possession or ownership shall be deemed removed,*
37 *entered, sold, delivered, or used and subject to jeopardy*
38 *determination as provided in Section 55101 if, in the judgment of*
39 *the board, it is necessary to ensure payment of the precollected*

1 user fee or user fee with respect to the removal, entry, sale,
2 delivery, or use of the fuel.

3 61599. Subsequent to the revocation of the license of a person,
4 the board shall reinstate the license when the person pays the
5 amount of user fee or precollected user fee determined, together
6 with interest and penalties, fully complies with this part, and pays
7 a fee of fifty dollars (\$50) to the board for reinstatement. The fee
8 shall not be subject to refund, except as provided in Section 55221.

9 61600. It is unlawful for any person to operate in this state
10 after a license has been revoked.

11
12 Article 9. Determination if No Return Made
13

14 61610. If any supplier fails, neglects, or refuses to file the
15 return within the time prescribed by this chapter, the board shall
16 estimate the fuel removals, entries, or sales for the period for which
17 he or she made no return within the time required. Upon the basis
18 of this estimate the board shall determine the precollected user
19 fee due from the supplier, and shall add to the precollected user
20 fee a penalty of either 10 percent thereof or one thousand dollars
21 (\$1,000), whichever is greater. The board may make a
22 determination for more than one period and may make one or
23 more determinations for the same period.

24 61611. If any retailer fails, neglects, or refuses to file a return
25 within the time prescribed by this chapter, the board shall estimate
26 the fuel or special fuel purchased by and sold by the retailer for
27 the period for which he or she made no return within the time
28 required. Upon the basis of this estimate the board shall determine
29 the user fee due from the retailer, and shall add to the user fee due
30 a penalty of either 10 percent thereof or one thousand dollars
31 (\$1,000), whichever is greater. The board may make a
32 determination for more than one period and may make one or
33 more determinations for the same period.

34 61613. All determinations so made, exclusive of penalties, shall
35 bear interest at the modified adjusted rate per month, or fraction
36 thereof, established pursuant to Section 6591.5, from the last day
37 of the month after the close of the monthly period for which the
38 amount or any portion thereof should have been returned until the
39 date of payment.

1 61614. *If the neglect or refusal of a supplier, retailer, or user*
2 *to file a return is due to fraud or intent to evade the user fee, a*
3 *penalty of 25 percent of the user fee shall be added thereto in*
4 *addition to the penalty provided in Sections 61610 and 61611.*

5 61615. *Promptly after making its determination the board shall*
6 *give to the delinquent supplier written notice of the estimate, tax,*
7 *and penalty, and the notice shall be given in the manner prescribed*
8 *in subdivision (d) of Section 55061 for service of notice of a*
9 *deficiency determination.*

10
11 Article 10. *Payments by Unlicensed Persons*
12

13 61620. (a) *If any person becomes a supplier or retailer without*
14 *first securing a license, the precollected user fee or user fee, and*
15 *applicable penalties and interest, if any, become immediately due*
16 *and payable on account of all fuel or special fuel removed, sold,*
17 *or entered by the supplier or retailer.*

18 (b) *The board shall estimate the amount of fuel received and*
19 *the amount of fuel removed, sold, or entered and shall determine*
20 *immediately the precollected user fee or user fee on the amount,*
21 *adding to the precollected user fee or user fee a penalty of 25*
22 *percent of the amount of the precollected user fee or user fee, and*
23 *shall give the unlicensed supplier or retailer notice of this*
24 *determination in the manner prescribed in subdivision (d) Section*
25 *55061 for service of notice of a deficiency determination. The*
26 *determination shall include interest at the modified adjusted rate*
27 *per month, or fraction thereof, established pursuant to Section*
28 *6591.5, from the last day of the month following the date the*
29 *precollected user fee or user fee applies until the date of remittance*
30 *to the state. The provisions of Sections 55101 and 55102 shall be*
31 *applicable with respect to the finality of the determination and the*
32 *right of the unlicensed supplier or retailer to petition for a*
33 *redetermination. Where the board determines that failure to secure*
34 *a license was due to reasonable cause, the penalty may be waived.*

35 61621. *The board shall collect the fee, penalty, and interest*
36 *due from the unlicensed person by seizure and sale of property in*
37 *the manner prescribed for the collection of a delinquent monthly*
38 *fee.*

39 61622. *At the request of the board, the Attorney General shall*
40 *commence and prosecute to final determination an action at law*

1 to collect the fee, penalty, and interest, or any part thereof,
2 determined against an unlicensed person.

3 61623. In the suit, a copy of the jeopardy determination
4 certified by the board shall be prima facie evidence that the
5 unlicensed person is indebted to the state in the amount of the fee,
6 penalties, and interest.

7 61624. The foregoing remedies of the state are cumulative.

8 61625. No action taken pursuant to this article relieves the
9 unlicensed supplier or retailer in any manner from the penal
10 provisions of this part or Chapter 7 (commencing with Section
11 55361) of Division 30.

12
13 Article 11. Refunds on Certain Sales
14

15 61630. The following persons who have paid a precollected
16 user fee or user fee for fuel either directly to the state or to the
17 retailer from whom it was purchased shall, except as otherwise
18 provided in this part, be reimbursed and repaid the amount of the
19 user fee:

20 (a) Any person who buys and uses motor vehicle fuel for
21 purposes other than operating motor vehicles upon the public
22 highways of the state, except vehicles subject to identification
23 under Division 16.5 (commencing with Section 38000) of the
24 Vehicle Code, which are used for recreational purposes or are
25 rented or leased for recreational purposes, and except motor
26 vehicles subject to registration under Division 3 (commencing
27 with Section 4000) of the Vehicle Code while engaged in
28 off-highway recreational use.

29 (b) Any person who exports fuel for use outside of this state.
30 Fuel carried from this state in the fuel tank of a motor vehicle is
31 not deemed to be exported from this state.

32 (c) Any person who sells the motor vehicle fuel to the Armed
33 Forces of the United States for use in ships or aircraft or for use
34 outside this state, under circumstances that would have entitled
35 him or her to an exemption from the payment of the precollected
36 user fee or user fee under Section 61301 had he or she been the
37 supplier of this fuel.

38 (d) Any person who buys and uses the fuel in any construction
39 equipment that is exempt from vehicle registration pursuant to the

1 *Vehicle Code, while operated within the confines and limits of a*
2 *construction project.*

3 *(e) Any supplier who sells motor vehicle fuel which is sold to*
4 *any consulate officer or consulate employee under circumstances*
5 *which would have entitled the supplier to an exemption under*
6 *paragraph (4) of subdivision (a) of Section 61301 if the supplier*
7 *had sold the motor vehicle fuel directly to the consulate officer or*
8 *consulate employee.*

9 *(f) Any supplier who removes motor vehicle fuel at a rack and*
10 *pays a precollected user fee on that removal or who purchases*
11 *user fee-paid motor vehicle fuel outside the bulk transfer/terminal*
12 *system and then delivers the user fee-paid motor vehicle fuel to*
13 *another approved terminal from which that supplier subsequently*
14 *removes the user fee-paid motor vehicle fuel at the terminal rack,*
15 *but only to the extent that the supplier can show that the user fee*
16 *on the same amount of motor vehicle fuel has been paid more than*
17 *one time by the same supplier.*

18 *(g) Any supplier who purchases user fee-paid motor vehicle*
19 *fuel in the bulk transfer/terminal system and subsequently removes*
20 *the user fee-paid motor vehicle fuel at the terminal rack, but only*
21 *to the extent that the supplier can show that user fee on the same*
22 *amount of motor vehicle fuel has been paid more than one time*
23 *by the same supplier.*

24 *(h) Any retailer who sells fuel to a train operator for use in a*
25 *train or for other off-highway use and the retailer has on hand an*
26 *exemption certificate described in Section 61303 from the train*
27 *operator.*

28 *(i) Any retailer who sells diesel fuel for use on a farm for*
29 *farming purposes or for use in an exempt bus operation.*

30
31 *Article 12. Other Miscellaneous Administrative Provisions*

32
33 *61640. As this state is the source of petroleum products for*
34 *other states and agencies within this state, if the examination or*
35 *investigation necessitates collaboration or conference with fuel*
36 *tax or fee officials of other states or agencies within this state, at*
37 *places inside or outside this state, this collaboration or conference*
38 *is declared to be a necessary function in the administration of this*
39 *part.*

1 61641. (a) Upon request from the officials to whom is entrusted
2 the enforcement of the motor fuel tax or fee law of another
3 government, the board may furnish to those officials the
4 information in the possession of the board that is deemed essential
5 to the enforcement of the motor fuel tax and fee laws.

6 Any information so furnished shall not be used for any purpose
7 other than that for which it was furnished.

8 (b) The board may furnish to any state or federal agency
9 investigating violations of or enforcing any state or federal law
10 related to motor fuels any motor fuel information in the possession
11 of the board that is deemed necessary for the enforcement of those
12 laws.

13 (c) The board may furnish any interstate user information
14 obtained by the board under this part to any state or federal agency
15 for use by that agency in the enforcement of interstate user
16 registration or licensing laws, or interstate vehicle registration or
17 licensing laws.

18 61642. The board or its authorized representative may make
19 any examinations of the books, records, and equipment of any
20 government entities, industrial users, interstate users, pipeline
21 operators, qualified motor vehicle operators, retailers, suppliers,
22 train operators, users of fuel or special fuel, and vessel operators
23 and any other investigations as it may deem necessary in carrying
24 out the provisions of this part.

25 61643. (a) Officers or employees of the state, upon presenting
26 appropriate credentials and a written notice to the owner, operator,
27 or agent in charge, are authorized to enter any place and to
28 conduct inspections in accordance with paragraphs (1) to (6),
29 inclusive.

30 (1) Inspections shall be performed in a reasonable manner and
31 at times that are reasonable under the circumstances, taking into
32 consideration the normal business hours of the place to be entered.

33 (2) Inspections may be at any place at which fuel subject to the
34 user fee is or may be produced or stored or at any inspection site
35 where evidence of activities involving evasion may be discovered.
36 These places may include, but are not limited to, any terminal, any
37 fuel storage facility that is not a terminal, any retail fuel facility,
38 or any designated inspection site.

39 (3) A designated inspection site is any state highway inspection
40 station, weigh station, agricultural inspection station, mobile

1 station, or other location designated by the state or the Internal
2 Revenue Service to be used as a fuel inspection site. A designated
3 inspection site shall be identified as a fuel inspection site.

4 (4) Officers or employees may physically inspect, examine, or
5 otherwise search any tank, reservoir, or other container that can
6 or may be used for the production, storage, or transportation of
7 fuel, diesel fuel dyes, or diesel fuel markers. Inspection may also
8 be made of any equipment used for, or in connection with,
9 production, storage, or transportation of fuel, diesel fuel dyes, or
10 diesel fuel markers. This includes any equipment used for the
11 dyeing or marking of diesel fuel. This includes the books and
12 records kept to determine fee liability.

13 (5) Officers or employees may detain any vehicle, train, or vessel
14 for the purpose of inspecting its fuel tanks and storage tanks.
15 Detainment will be either on the premises under inspection or at
16 a designated inspection site. Detainment may continue for a
17 reasonable period of time as is necessary to determine the amount
18 and composition of the fuel.

19 (6) Officers or employees may take and remove samples of the
20 fuel in reasonable quantities as necessary to determine its
21 composition.

22 (b) Any person that refuses to allow an inspection may be fined
23 one thousand dollars (\$1,000) for each refusal. This penalty is in
24 addition to any other penalty or tax that may be imposed upon that
25 person or any other person liable for tax or penalty.

26 27 Article 13. Collections 28

29 61650. (a) If any person fails to pay any user fee imposed
30 under this part at the time that it becomes due and payable, the
31 amount thereof, including penalties and interest, together with
32 any costs in addition thereto, shall thereupon be a perfected and
33 enforceable state tax lien. This lien is subject to Chapter 14
34 (commencing with Section 7150) of Division 7 of Title 1 of the
35 Government Code.

36 (b) For the purpose of this section, amounts are due and payable
37 on the following dates:

38 (1) For amounts disclosed on a return received by the board
39 before the date the return is delinquent, the date the return would
40 have been delinquent.

1 (2) For amounts disclosed on a return filed on or after the date
2 the return is delinquent, the date the return is received by the
3 board.

4 (3) For amounts determined under Section 55101, on the date
5 specified in that section.

6 (4) For all other amounts, the date the assessment is final.

7 SEC. 2. Section 2100 of the Streets and Highways Code is
8 amended to read:

9 2100. The Highway Users Tax Fund is continued in existence
10 as the Highway Users—Tax Revenue Account in the Transportation
11 Tax Revenue Fund.

12 Any reference in any law or regulation to the Highway Users
13 Tax Fund or the Highway Users Tax Account shall be deemed to
14 refer to the Highway Users—Tax Revenue Account in the
15 Transportation—Tax Revenue Fund.

16 SEC. 3. Section 2104 of the Streets and Highways Code is
17 amended to read:

18 2104. A sum equal to the net revenue derived from a per gallon
19 tax of ~~2.035 cents (\$0.02035) under the Motor Vehicle Fuel License~~
20 ~~Tax Law (Part 2 (commencing with Section 7301) of Division 2);~~
21 1.80 cents (\$0.0180) under the Use Fuel Tax Law (Part 3
22 (commencing with Section 8601) of Division 2) of the Revenue
23 and Taxation Code), and ~~1.80 cents (\$0.0180) under the Diesel~~
24 ~~Fuel Tax Law (Part 31 (commencing with Section 60001) of~~
25 ~~Division 2) the net revenue derived from a per gallon fee of 3.835~~
26 ~~cents (\$0.03835) under the Fuel User Fee Law (Part 32~~
27 ~~(commencing with Section 61001) of the Revenue and Taxation~~
28 ~~Code Code)~~, shall be apportioned among the counties, as follows:

29 (a) Each county shall be paid one thousand six hundred
30 sixty-seven dollars (\$1,667) during each calendar month, which
31 amount shall be expended exclusively for engineering costs and
32 administrative expenses with respect to county roads.

33 (b) A sum equal to the total of all reimbursable snow removal
34 or snow grooming, or both, costs filed pursuant to subdivision (d)
35 of Section 2152, or seven million dollars (\$7,000,000), whichever
36 is less, shall be apportioned in 12 approximately equal monthly
37 apportionments for snow removal or snow grooming, or both, on
38 county roads, as provided in Section 2110.

1 (c) A sum equal to five hundred thousand dollars (\$500,000)
2 shall be apportioned in 12 approximately equal monthly
3 apportionments, as provided in Section 2110.5.

4 (d) (1) Seventy-five percent of the funds payable under this
5 section shall be apportioned among the counties monthly in the
6 respective proportions that the number of fee-paid and exempt
7 vehicles which are registered in each county bears to the total
8 number of fee-paid and exempt vehicles registered in the state.

9 (2) For purposes of apportionment under this subdivision, the
10 Department of Motor Vehicles shall, as soon as possible after the
11 last day of each calendar month, furnish to the Controller a verified
12 statement showing the number of fee-paid and exempt vehicles
13 which are registered in each county and in the state as of the last
14 day of each calendar month as reflected by the records of the
15 Department of Motor Vehicles.

16 (e) Of the remaining money payable, there shall be paid to each
17 eligible county an amount that is computed monthly as follows:
18 The number of miles of maintained county roads in each county
19 shall be multiplied by sixty dollars (\$60); from the resultant
20 amount, there shall be deducted the amount received by each
21 county under subdivision (d) and the remainder, if any, shall be
22 paid to each county.

23 (f) The remaining money payable, after the foregoing
24 apportionments, shall be apportioned among the counties in the
25 same proportion as the money referred to in subdivision (d).

26 ~~(g) (1) Transfers of revenues from the Highway Users Tax~~
27 ~~Account to counties pursuant to this section collected during the~~
28 ~~months of March, April, May, June, and July of 2008, shall be~~
29 ~~made with the transfer of August 2008 revenues in September of~~
30 ~~2008. This suspension shall not apply to a county with a population~~
31 ~~of less than 40,000.~~

32 ~~(2) For the purpose of meeting the cash obligations associated~~
33 ~~with ongoing budgeted costs, a county may make use of any cash~~
34 ~~balance in its county road fund, including that resulting from the~~
35 ~~receipt of funds pursuant to the Highway Safety, Traffic Reduction,~~
36 ~~Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49~~
37 ~~(commencing with Section 8879.20) of Division 1 of Title 2 of~~
38 ~~the Government Code (hereafter bond act)) for local streets and~~
39 ~~roads maintenance, during the period of this suspension, without~~
40 ~~the use of this cash being reflected as an expenditure of bond act~~

1 funds, provided the cash is replaced once this suspension is repaid
2 in September of 2008. Counties may accrue the revenue received
3 in September 2008 as repayment of these suspensions for the
4 months of April, May, and June of 2008 back to the 2007-08 fiscal
5 year. Nothing in this paragraph shall change the fact that
6 expenditures must be accrued and reflected from the appropriate
7 funding sources for which the moneys were received and meet all
8 the requirements of those funding sources.

9 (h)

10 (g) (1) The transfer of revenues from the Highway Users Tax
11 Revenue Account to counties pursuant to this section that are
12 collected during the months of January, February, and March 2009,
13 shall be made with the transfer of April 2009 revenues in May
14 2009.

15 (2) For the purpose of meeting the cash obligations associated
16 with ongoing budgeted costs, a county may make use of any cash
17 balance in its county road fund, including that resulting from the
18 receipt of funds pursuant to the Highway Safety, Traffic Reduction,
19 Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49
20 (commencing with Section 8879.20) of Division 1 of Title 2 of
21 the Government Code (bond act)) for local streets and roads
22 maintenance during the period of this suspension, provided the
23 cash is replaced once this suspension is repaid in May of 2009.

24 (3) This subdivision shall not affect any requirement that an
25 expenditure is required to be accrued and reflected from the
26 appropriate funding source for which the money was received and
27 to meet all the requirements of its funding source.

28 *SEC. 4. Section 2105 of the Streets and Highways Code is*
29 *amended to read:*

30 2105. In addition to the apportionments prescribed by Sections
31 2104, 2106, and 2107, from the revenues derived from a per gallon
32 tax imposed pursuant to Section 7360 of the Revenue and Taxation
33 Code, and a per gallon tax imposed pursuant to Section 8651 of
34 the Revenue and Taxation Code, and a per gallon tax fee imposed
35 pursuant to Sections 60050 and 60115 Section 61101 of the
36 Revenue and Taxation Code, the following apportionments shall
37 be made:

38 (a) A sum equal to 1.035 cents (\$0.01035) per gallon from the
39 tax under Section 7360 of the Revenue and Taxation Code, 11.5
40 percent of any per gallon tax in excess of nine cents (\$0.09) per

1 gallon under Section 8651 of the Revenue and Taxation Code, and
2 ~~1.035 cents (\$0.01035) per gallon from the tax under Sections~~
3 ~~60050 and 60115~~ *2.070 cents (\$0.02070) per gallon from the fee*
4 *under Section 61101* of the Revenue and Taxation Code, shall be
5 apportioned among the counties, including a city and county.

6 The amount of apportionment to each county, including a city
7 and county, during a fiscal year shall be calculated as follows:

8 (1) One million dollars (\$1,000,000) for apportionment to all
9 counties, including a city and county, in proportion to each county's
10 receipts during the prior fiscal year under Sections 2104 and 2106.

11 (2) One million dollars (\$1,000,000) for apportionment to all
12 counties, including a city and county, as follows:

13 (A) Seventy-five percent in the proportion that the number of
14 fee-paid and exempt vehicles which are registered in the county
15 bears to the number of fee-paid and exempt vehicles registered in
16 the state.

17 (B) Twenty-five percent in the proportion that the number of
18 miles of maintained county roads in the county bears to the miles
19 of maintained county roads in the state.

20 (3) For each county, determine its factor which is the higher
21 amount calculated pursuant to paragraph (1) or (2) divided by the
22 sum of the higher amounts for all of the counties.

23 (4) The amount to be apportioned to each county is equal to its
24 factor multiplied by the amount available for apportionment.

25 (b) A sum equal to ~~1.035 cents (\$0.01035) per gallon from the~~
26 ~~tax under Section 7360 of the Revenue and Taxation Code~~, 11.5
27 percent of any per gallon tax in excess of nine cents (\$0.09) per
28 gallon under Section 8651 of the Revenue and Taxation Code, and
29 ~~1.035 cents (\$0.01035) per gallon from the tax under Sections~~
30 ~~60050 and 60115~~ *2.070 cents (\$0.02070) per gallon from the fee*
31 *under Section 61101* of the Revenue and Taxation Code, shall be
32 apportioned to cities, including a city and county, in the proportion
33 that the total population of the city bears to the total population of
34 all the cities in the state.

35 (e) ~~(1) Transfers of revenues from the Highway Users Tax~~
36 ~~Account to counties or cities pursuant to this section collected~~
37 ~~during the months of March, April, May, June, and July of 2008;~~
38 ~~shall be made with the transfer of August 2008 revenues in~~
39 ~~September of 2008. This suspension shall not apply to a county~~
40 ~~with a population of less than 40,000.~~

~~(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city or county may make use of any cash balance in the city account that is designated for the receipt of state funds allocated for local streets and roads or the county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (hereafter bond act)) for local streets and roads maintenance, during the period of this suspension, without the use of this cash being reflected as an expenditure of bond act funds, provided the cash is replaced once this suspension is repaid in September of 2008. Counties and cities may accrue the revenue received in September 2008 as repayment of these suspensions for the months of April, May, and June of 2008 back to the 2007-08 fiscal year. Nothing in this paragraph shall change the fact that expenditures must be accrued and reflected from the appropriate funding sources for which the moneys were received and meet all the requirements of those funding sources.~~

~~(d)~~

(c) (1) The transfer of revenues from the Highway Users Tax Revenue Account to counties or cities pursuant to this section collected during the months of January, February, and March 2009 shall be made with the transfer of April 2009 revenues in May 2009.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city or county may make use of any cash balance in the city account that is designated for the receipt of state funds allocated for local streets and roads or the county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (bond act)) for local streets and roads maintenance, during the period of this suspension, and the use of this cash shall not be considered as an expenditure of bond act funds, if the cash is replaced when the payments that are suspended pursuant to this subdivision are repaid in May 2009.

(3) This subdivision shall not affect any requirement that an expenditure is required to be accrued and reflected from the

appropriate funding source for which the money was received and to meet all the requirements of its funding source.

SEC. 5. Section 2106 of the Streets and Highways Code is amended to read:

2106. A sum equal to the net revenue derived from one and four one-hundredths cent (\$0.0104) per gallon ~~tax fee~~ under the ~~Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 Fuel User Fee Law (Part 32 (commencing with Section 61001) of the Revenue and Taxation Code)~~ shall be apportioned monthly from the Highway Users ~~Tax Revenue~~ Account in the Transportation ~~Tax Revenue~~ Fund among the counties and cities as follows:

(a) Four hundred dollars (\$400) per month shall be apportioned to each city and city and county and eight hundred dollars (\$800) per month shall be apportioned to each county and city and county.

(b) Commencing on July 31, 2007, and on the last day of each month after that date, the sum of six hundred thousand dollars (\$600,000) per month shall be transferred to the Bicycle Transportation Account in the State Transportation Fund.

(c) The balance shall be apportioned, as follows:

(1) A base sum shall be computed for each county by using the same proportions of fee-paid and exempt vehicles as are established for purposes of apportionment of funds under subdivision (d) of Section 2104.

(2) For each county, the percentage of the total assessed valuation of tangible property subject to local tax levies within the county which is represented by the assessed valuation of tangible property outside the incorporated cities of the county shall be applied to its base sum, and the resulting amount shall be apportioned to the county. The assessed valuation of taxable tangible property, for purposes of this computation, shall be that most recently used for countywide tax levies as reported to the Controller by the State Board of Equalization. If an incorporation or annexation is legally completed following the base sum computation, the new city's assessed valuation shall be deducted from the county's assessed valuation, the estimate of which may be provided by the State Board of Equalization.

(3) The difference between the base sum for each county and the amount apportioned to the county shall be apportioned to the cities of that county in the proportion that the population of each

1 city bears to the total population of all the cities in the county.
2 Populations used for determining apportionment of money under
3 Section 2107 are to be used for purposes of this section.

4 ~~(d) (1) Transfers of revenues from the Highway Users Tax~~
5 ~~Account to counties or cities pursuant to this section collected~~
6 ~~during the months of March, April, May, June, and July of 2008,~~
7 ~~shall be made with the transfer of August 2008 revenues in~~
8 ~~September of 2008. This suspension shall not apply to a county~~
9 ~~with a population of less than 40,000.~~

10 ~~(2) For the purpose of meeting the cash obligations associated~~
11 ~~with ongoing budgeted costs, a city or county may make use of~~
12 ~~any cash balance in the city account that is designated for the~~
13 ~~receipt of state funds allocated for local streets and roads or the~~
14 ~~county road fund, including that resulting from the receipt of funds~~
15 ~~pursuant to the Highway Safety, Traffic Reduction, Air Quality,~~
16 ~~and Port Security Bond Act of 2006 (Chapter 12.49 (commencing~~
17 ~~with Section 8879.20) of Division 1 of Title 2 of the Government~~
18 ~~Code (hereafter bond act)) for local streets and roads maintenance,~~
19 ~~during the period of this suspension, without the use of this cash~~
20 ~~being reflected as an expenditure of bond act funds, provided the~~
21 ~~cash is replaced once this suspension is repaid in September of~~
22 ~~2008. Counties and cities may accrue the revenue received in~~
23 ~~September 2008 as repayment of these suspensions for the months~~
24 ~~of April, May, and June of 2008 back to the 2007-08 fiscal year.~~
25 ~~Nothing in this paragraph shall change the fact that expenditures~~
26 ~~must be accrued and reflected from the appropriate funding sources~~
27 ~~for which the moneys were received and meet all the requirements~~
28 ~~of those funding sources.~~

29 (e)

30 ~~(d) (1) The transfer of revenues from the Highway Users Tax~~
31 ~~Revenue Account to counties or cities pursuant to this section~~
32 ~~collected during the months of January, February, and March 2009,~~
33 ~~shall be made with the transfer of April 2009 revenues in May~~
34 ~~2009.~~

35 ~~(2) For the purpose of meeting the cash obligations associated~~
36 ~~with ongoing budgeted costs, a city or county may make use of~~
37 ~~any cash balance in the city account that is designated for the~~
38 ~~receipt of state funds allocated for local streets and roads or the~~
39 ~~county road fund, including that resulting from the receipt of funds~~
40 ~~pursuant to the Highway Safety, Traffic Reduction, Air Quality,~~

and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (bond act)) for local streets and roads maintenance, during the period of this suspension, and the use of this cash shall not be considered as an expenditure of bond act funds, if the cash is replaced when the payments that are suspended pursuant to this subdivision are repaid in May 2009.

(3) This subdivision shall not affect any requirement that an expenditure is required to be accrued and reflected from the appropriate funding source for which the money was received and to meet all the requirements of its funding source.

SEC. 6. Section 2107 of the Streets and Highways Code is amended to read:

2107. (a) A sum equal to the net revenues derived from a per gallon tax of ~~1.315 cents (\$0.01315) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2)~~, 2.59 cents (\$0.0259) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of Division 2) *of the Revenue and Taxation Code*, and ~~1.80 cents (\$0.0180) under the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001) of Division 2)~~ *the net revenues derived from a per gallon fee of 3.115 cents (\$0.03115) under the Fuel User Fee Law (Part 32 (commencing with Section 61001) of the Revenue and Taxation Code Code)*, shall be apportioned monthly to the cities and cities and counties of this state from the Highway Users ~~Tax Revenue~~ Account in the Transportation ~~Tax Revenue~~ Fund as provided in this section.

(b) From the sum determined pursuant to subdivision (a), the Controller shall allocate annually to each city that has filed a report containing the information prescribed by subdivision (c) of Section 2152, and that had expenditures in excess of five thousand dollars (\$5,000) during the preceding fiscal year for snow removal, an amount equal to one-half of the amount of its expenditures for snow removal in excess of five thousand dollars (\$5,000) during that fiscal year.

(c) The balance of the sum determined pursuant to subdivision (a) from the Highway Users ~~Tax Revenue~~ Account shall be allocated to each city, including city and county, in the proportion that the total population of the city bears to the total population of all the cities in this state.

(d) (1) For the purpose of this section, except as otherwise provided in paragraph (2), the population in each city is the population determined for that city in the manner specified in Section 11005.3 of the Revenue and Taxation Code.

(2) Commencing with the ninth fiscal year of a city described in subdivision (a) of Section 11005.3 of the Revenue and Taxation Code, the sixth fiscal year of a city described in subdivision (b) of Section 11005.3 of the Revenue and Taxation Code, and the 61st month of the city described in subdivision (c) of Section 11005.3 of the Revenue and Taxation Code, the population in each city is the actual population of that city, as defined in subdivision (e) of Section 11005.3 of the Revenue and Taxation Code.

~~(e) (1) Transfers of revenues from the Highway Users Tax Account to cities pursuant to this section collected during the months of March, April, May, June, and July of 2008, shall be made with the transfer of August 2008 revenues in September of 2008.~~

~~(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city may make use of any cash balance in the city account that is designated for the receipt of state funds allocated for local streets and roads, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (hereafter bond act)) for local streets and roads maintenance, during the period of this suspension, without the use of this cash being reflected as an expenditure of bond act funds, provided the cash is replaced once this suspension is repaid in September of 2008. Cities may accrue the revenue received in September 2008 as repayment of these suspensions for the months of April, May, and June of 2008 back to the 2007-08 fiscal year. Nothing in this paragraph shall change the fact that expenditures must be accrued and reflected from the appropriate funding sources for which the moneys were received and meet all the requirements of those funding sources.~~

~~(f)~~

~~(e) (1) A transfer of revenues from the Highway Users Tax Revenue Account to cities pursuant to this section collected during the months of January, February, and March 2009, shall be made with the transfer of April 2009 revenues in May 2009.~~

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city may make use of any cash balance in the city account that is designated for the receipt of state funds allocated for local streets and roads, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (bond act)) for local streets and roads maintenance, during the period of this suspension, and the use of this cash shall not be reflected as an expenditure of bond act funds, if the cash is replaced once this suspension is repaid in May 2009.

(3) This subdivision shall not affect any requirement that an expenditure is required to be accrued and reflected from the appropriate funding sources for which the moneys were received and to meet all the requirements of those funding sources.

SEC. 7. Section 1678 of the Vehicle Code is amended to read:

1678. (a) Between January 1, 2004, and December 31, 2004, inclusive, the fee amounts set forth in Section 488.385 of the Code of Civil Procedure, Section 10902 of the Revenue and Taxation Code, and Sections 4604, 5014, 5036, 6700.25, 9102.5, 9250.8, 9250.13, 9252, 9254, 9258, 9261, 9265, 9702, 11515, 11515.2, ~~12814.5~~, 14900, 14900.1, 14901, 14902, *15250.6, 15250.7, 15255.1, 15255.2*, 38121, 38225.4, 38225.5, 38232, 38255, 38260, and 38265 shall be the base fee amounts charged by the department.

(b) On January 1, 2005, and every January 1 thereafter, the department shall adjust the fees imposed under the sections listed in subdivision (a) by increasing each fee in an amount equal to the increase in the California Consumer Price Index for the prior year, as calculated by the Department of Finance, with amounts equal to or greater than fifty cents (\$0.50) rounded to the next highest whole dollar.

(c) Any increases to the fees imposed under the sections listed in subdivision (a) that are enacted by legislation subsequent to January 1, 2005, shall be deemed to be changes to the base fee for purposes of the calculation performed pursuant to subdivision (b).

SEC. 8. Section 12814.5 of the Vehicle Code is amended to read:

12814.5. (a) The director may establish a program to evaluate the traffic safety and other effects of renewing driver's licenses

1 by mail. Pursuant to that program, the department may renew by
2 mail driver's licenses for licensees not holding a probationary
3 license, and whose records, for the two years immediately
4 preceding the determination of eligibility for the renewal, show
5 no notification of a violation of subdivision (a) of Section 40509,
6 a total violation point count not greater than one as determined in
7 accordance with Section 12810, no suspension of the driving
8 privilege pursuant to Section 13353.2, and no refusal to submit to
9 or complete chemical testing pursuant to Section 13353 or 13353.1.

10 (b) The director may terminate the renewal by mail program
11 authorized by this section at any time the department determines
12 that the program has an adverse impact on traffic safety.

13 (c) No renewal by mail shall be granted to any person who is
14 70 years of age or older.

15 ~~(d) The department shall charge a fee of twenty-four dollars~~
16 ~~(\$24) for each noncommercial license renewal and thirty-four~~
17 ~~dollars (\$34) for each commercial license or noncommercial~~
18 ~~firefighter license renewal granted pursuant to subdivision (a)~~
19 ~~which expires on the fifth birthday following the date of the~~
20 ~~application.~~

21 (e)
22 (d) The department shall notify each licensee granted a renewal
23 by mail pursuant to this section of major changes to the Vehicle
24 Code affecting traffic laws occurring during the prior five-year
25 period.

26 (f)
27 (e) The department shall not renew a driver's license by mail
28 if the license has been previously renewed by mail two consecutive
29 times for five-year periods.

30 *SEC. 9. Section 14900 of the Vehicle Code is amended to read:*

31 14900. (a) Upon application for an original class C or M
32 driver's license, ~~there shall be paid to the department~~ a fee of
33 twenty-four dollars (\$24), *and on and after October 1, 2009, or*
34 *the effective date of the act that amended this section during the*
35 *2009–10 Third Extraordinary Session, whichever is later, a fee of*
36 *fifty-six dollars (\$56), shall be paid to the department* for a license
37 that will expire on the fifth birthday of the applicant following the
38 date of the application. The payment of the fee entitles the person
39 paying the fee to apply for a driver's license and to take three
40 examinations within a period of 12 months from the date of the

1 application or during the period that an instruction permit is valid,
2 as provided in Section 12509.

3 (b) In addition to the application fee specified in subdivision
4 (a), a person who fails to successfully complete the driving skill
5 test on the first attempt shall be required to pay an additional fee
6 of five dollars (\$5) for each additional driving skill test
7 administered under that application.

8 ~~(c) The fee specified in subdivision (b) shall be collected in~~
9 ~~conjunction with any application submitted on or after July 1,~~
10 ~~2003.~~

11 *SEC. 10. Section 14900.1 of the Vehicle Code is amended to*
12 *read:*

13 14900.1. (a) Except as provided in Sections 15250.6 and
14 15255.1, upon application for the renewal of a driver's license or
15 for a license to operate a different class of vehicle, ~~there shall be~~
16 ~~paid to the department~~ a fee of twenty-four dollars (\$24), *and on*
17 *and after October 1, 2009, or the effective date of the act that*
18 *amended this section during the 2009–10 Third Extraordinary*
19 *Session, whichever is later; a fee of fifty-six dollars (\$56), shall*
20 *be paid to the department* for a license that will expire on the fifth
21 birthday of the applicant following the date of the application. The
22 payment of the fee entitles the person paying the fee to apply for
23 a driver's license and to take three examinations within a period
24 of 12 months from the date of the application or during the period
25 that an instruction permit is valid, as provided in Section 12509.

26 (b) In addition to the application fee specified in subdivision
27 (a), a person who fails to successfully complete the driving skill
28 test on the first attempt shall be required to pay an additional fee
29 of five dollars (\$5) for each additional driving skill test
30 administered under that application.

31 ~~(c) The fee specified in subdivision (b) shall be collected in~~
32 ~~conjunction with any application submitted on or after July 1,~~
33 ~~2003.~~

34 *SEC. 11. Section 14901 of the Vehicle Code is amended to*
35 *read:*

36 14901. Upon an application for a duplicate driver's license or
37 for a change of name on a driver's license, ~~there shall be paid the~~
38 ~~department~~ a fee of nineteen dollars (\$19), *and on and after*
39 *October 1, 2009, or the effective date of the act that amended this*
40 *section during the 2009–10 Third Extraordinary Session, whichever*

1 *is later, a fee of forty-four dollars (\$44), shall be paid to the*
2 *department.*

3 *SEC. 12. Section 14902 of the Vehicle Code is amended to*
4 *read:*

5 14902. (a) Except as otherwise provided in subdivisions (b)
6 and (c) of this section, subdivision (c) of Section 13002, and
7 subdivision (c) of Section 14900, upon an application for an
8 identification card ~~there shall be paid to the department~~ a fee of
9 twenty dollars (\$20), *and on and after October 1, 2009, or the*
10 *effective date of the act that amended this section during the*
11 *2009–10 Third Extraordinary Session, whichever is later, a fee of*
12 *forty-eight dollars (\$48), shall be paid to the department.*

13 (b) An original or replacement senior citizen identification card
14 issued pursuant to subdivision (b) of Section 13000 shall be issued
15 free of charge.

16 (c) The fee for an original or replacement identification card
17 issued to a person who has been determined to have a current
18 income level that meets the eligibility requirements for assistance
19 programs under Chapter 2 (commencing with Section 11200) or
20 Chapter 3 (commencing with Section 12000) of Part 3 of, or Part
21 5 (commencing with Section 17000) of, or Article 9 (commencing
22 with Section 18900) of Chapter 10 of Part 6 of, or Chapter 10.1
23 (commencing with Section 18930) or Chapter 10.3 (commencing
24 with Section 18937) of Part 6 of, Division 9 of the Welfare and
25 Institutions Code shall be six dollars (\$6). The determination of
26 eligibility under this subdivision shall be made by a governmental
27 or nonprofit entity, which shall be subject to regulations adopted
28 by the department.

29 (d) All fees received pursuant to this section shall be deposited
30 in the Motor Vehicle Account.

31 *SEC. 13. Section 15250.6 of the Vehicle Code is amended to*
32 *read:*

33 15250.6. (a) A person shall not operate firefighting equipment
34 unless that person has in his or her immediate possession a valid
35 driver's license for the appropriate class of vehicle operated, or a
36 license issued pursuant to subdivision (b).

37 (b) The department may issue a restricted driver's license for
38 the appropriate class of vehicle to a firefighter for the operation
39 of firefighting equipment. The restricted license shall be valid only
40 for operating (1) firefighting equipment within this state, or in

1 another state during a response under a mutual aid pact, or (2) any
2 vehicle for which a class C driver's license is required.

3 (c) The restricted firefighter's license may be issued only to an
4 applicant qualified by examination prescribed and conducted by
5 the department.

6 The pretrip inspection and driving test required to receive the
7 license shall be the same as required to obtain a license under
8 Section 15250.

9 The written examination shall be developed by the department
10 with the cooperation of the State Fire Marshal. The department
11 shall include a sufficient number of questions from the
12 examinations required to obtain a license under Section 15250 to
13 ensure that passing the special examination under this section
14 ensures a level of safety comparable to examinations given under
15 Section 15250.

16 (d) In lieu of a report of medical examination required by
17 Section 12804.9, an applicant for a restricted license issued
18 pursuant to subdivision (b) shall, upon application and every two
19 years thereafter, submit medical information on a form approved
20 by the department.

21 (e) Upon application for issuance of an original driver's license
22 pursuant to subdivision (b), or for a renewal of a driver's license
23 issued pursuant to subdivision (b), ~~there shall be paid to the~~
24 ~~department~~ a fee of thirty-four dollars (\$34), *and on and after*
25 *October 1, 2009, or the effective date of the act that amended this*
26 *section during the 2009–10 Third Extraordinary Session, whichever*
27 *is later, a fee of seventy-four dollars (\$74), shall be paid to the*
28 *department* for a license that will expire on the fifth birthday of
29 the applicant following the date of the application.

30 (f) A "firefighter" is a person employed as a firefighter by a
31 federal or state agency or by a regularly organized fire department
32 of a city, county, city and county, or district, or registered as a
33 volunteer member of a regularly organized fire department having
34 official recognition of the city, county, city and county, or district
35 in which the department is located.

36 (g) "Firefighting equipment" means a motor vehicle used to
37 travel to and from the scene of any emergency situation, or to
38 transport equipment used in the control of any emergency situation,
39 and which is owned, leased, or rented by, or under the exclusive
40 control of, a federal or state agency, a regularly organized fire

1 department of a city, county, city and county, or district, or a
2 volunteer fire department having official recognition of the city,
3 county, city and county, or district in which the department is
4 located.

5 (h) For purposes of the penalties and sanctions prescribed by
6 Article 7 (commencing with Section 15300), the operation of
7 firefighting equipment under a license issued pursuant to
8 subdivision (b) is deemed to be the operation of a commercial
9 motor vehicle.

10 *SEC. 14. Section 15250.7 of the Vehicle Code is amended to*
11 *read:*

12 15250.7. Upon application for issuance of a duplicate driver's
13 license under subdivision (b) of Section 15250.6, ~~there shall be~~
14 ~~paid to the department~~ a fee of twenty-seven dollars (\$27), *and on*
15 *and after October 1, 2009, or the effective date of the act that*
16 *amended this section during the 2009–10 Third Extraordinary*
17 *Session, whichever is later, a fee of fifty-four dollars (\$54), shall*
18 *be paid to the department.*

19 *SEC. 15. Section 15255.1 of the Vehicle Code is amended to*
20 *read:*

21 15255.1. (a) Except as otherwise specified in subdivisions (b)
22 and (c), upon an application for an original commercial driver's
23 license, ~~there shall be paid to the department~~ a fee of sixty-four
24 dollars (\$64), *and on and after October 1, 2009, or the effective*
25 *date of the act that amended this section during the 2009–10 Third*
26 *Extraordinary Session, whichever is later, a fee of one hundred*
27 *twenty-eight dollars (\$128), shall be paid to the department* for a
28 license that will expire on the fifth birthday of the applicant
29 following the date of the application. A fee of sixty-four dollars
30 (\$64), *and on and after October 1, 2009, or the effective date of*
31 *the act that amended this section during the 2009–10 Third*
32 *Extraordinary Session, whichever is later, a fee of one hundred*
33 *twenty-eight dollars (\$128), shall also be paid to the department*
34 upon an application to change a license classification or to remove
35 a restriction if the change or removal requires a driving-skill test
36 and the license will expire on the fifth birthday of the applicant
37 following the date of the application.

38 (b) Upon application for an original commercial driver's license
39 or for the renewal of commercial driver's license by a currently
40 licensed class A or class B, or class A or class B, driver who meets

the driver record requirements and all other requirements established by Section 383.77 of Title 49 of the Code of Federal Regulations, ~~there shall be paid to the department~~ a fee of thirty-four dollars (\$34), *and on and after October 1, 2009, or the effective date of the act that amended this section during the 2009–10 Third Extraordinary Session, whichever is later, a fee of seventy-four dollars (\$74), shall be paid to the department* for a license that will expire on the fifth birthday of the applicant following the date of the application.

(c) Upon application for an original class C commercial driver's license or for the renewal of a class C commercial driver's license which requires an endorsement as provided in Section 15278, ~~there shall be paid to the department~~ a fee of thirty-four dollars (\$34), *and on and after October 1, 2009, or the effective date of the act that amended this section during the 2009–10 Third Extraordinary Session, whichever is later, a fee of seventy-four dollars (\$74), shall be paid to the department* for a license that will expire on the fifth birthday of the applicant following the date of the application.

(d) Following failure in taking a driving-skill test, ~~there shall be paid to the department~~ a fee of thirty dollars (\$30) *shall be paid to the department* for each subsequent administration of the driving-skill test required by the application.

SEC. 16. Section 15255.2 of the Vehicle Code is amended to read:

15255.2. Upon application for a duplicate commercial driver's license by a currently licensed class A or class B driver, or a class C commercial driver's license which requires an endorsement as provided in Section 15278, from an applicant who meets the driver record requirements and all other requirements established by Section 383.77 of Title 49 of the Code of Federal Regulations, ~~there shall be paid to the department~~ a fee of twenty-seven dollars (\$27), *and on and after October 1, 2009, or the effective date of the act that amended this section during the 2009–10 Third Extraordinary Session, whichever is later, a fee of fifty-four dollars (\$54), shall be paid to the department.*

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

1 *infraction, eliminates a crime or infraction, or changes the penalty*
2 *for a crime or infraction, within the meaning of Section 17556 of*
3 *the Government Code, or changes the definition of a crime within*
4 *the meaning of Section 6 of Article XIII B of the California*
5 *Constitution.*

6 *SEC. 18. This act addresses the fiscal emergency declared by*
7 *the Governor by proclamation on December 19, 2008, pursuant*
8 *to subdivision (f) of Section 10 of Article IV of the California*
9 *Constitution.*

10 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
11 ~~changes relating to the Budget Act of 2009.~~

12 ~~SEC. 2. This act addresses the fiscal emergency declared by~~
13 ~~the Governor by proclamation on December 19, 2008, pursuant~~
14 ~~to subdivision (f) of Section 10 of Article IV of the California~~
15 ~~Constitution.~~

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